

U.S. House Committee on House Administration, Elections Subcommittee

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Testimony of Hon. Deb Markowitz, Vermont Secretary of State Past President, National Association of Secretaries of State (NASS)

Good afternoon Chairwoman Lofgren and committee members. Thank you for the opportunity to speak to you this afternoon about Vermont's experience with no excuse early and absentee voting.

I am Vermont Secretary of State Deb Markowitz. I have served as Vermont's Secretary of State for nearly a decade, and during that time we have seen a significant increase in the use of early and absentee voting. When I was first elected in 1998, approximately 10% of Vermont voters chose to vote by absentee ballot. In contrast, during this past mid-term election over 20% of our voters voted without going to the polls.

Vermont is a small and rural state with fewer than 450,000 registered voters. We run our elections in our towns, using paper and pen; and in 154 out of 246 towns we count ballots by hand. The remaining 92 towns use optical scan tabulators. We have a vote-by-phone ballot marking system available in every polling place to ensure that our elections are accessible to people with disabilities.

The principal points I would like to make in this testimony is that our experience shows that Vermont voters like the convenience of voting early in person or by mail; our election administrators like no excuse absentee voting because it reduces lines on election day; we have had few issues with voter fraud; and there are steps states can take to help reduce voter error and to deter fraud.

History of absentee ballot voting in Vermont:

Like many states, Vermont first adopted a law to permit absentee voting in 1863 to enable Vermonters serving in the Civil War to vote. Part of the law was struck down by the Vermont courts, but the use of absentee ballots for federal elections was upheld. In 1919, the law was expanded to allow soldiers, students attending schools in other states, and those out of state on work related jobs, the right to vote in Vermont elections, though absent from Vermont.

By the 1950s the right to vote by absentee ballot had been extended to all voters who: "by reason of illness, injury, physical disability, religious principle, or necessary absence from his town of residence during the hours the polls are open, expects to be unable to attend in person at the polling place." And in 1986 the Vermont General Assembly authorized the use of absentee ballots for residents of state institutions, such as the Vermont State Hospital and correctional facilities.

By the 1990s approximately five percent of Vermont voters voted by absentee ballot. It was not until 1993 that a Vermont voter could simply request an absentee ballot for convenience. After this change was implemented the rate of absentee voting rose to approximately 10%.

In 2000 my office began a public education campaign to ensure that Vermont's voters knew about their right to vote by absentee ballot. The "Vote Early – Vote by Mail: Just Vote!" campaign was conducted in partnership with our cities and towns, our public libraries, Vermont's business community, labor unions, the Vermont Commission on Women and our community action agencies. Using posters, flyers, public service announcements, and cable access programs, we worked to educate voters about their right to choose to vote early or by mail using the absentee ballot. As a result of these efforts, 19% of Vermont voters voted by absentee ballot in the 2000 election. In response to the success of this campaign, the Vermont legislature decided to change the name of the ballot to "Early or Absentee Ballot" in order to emphasize that any voter may choose to vote early or by mail.

In the 2006 election over 20% of Vermont voters chose to vote by early or absentee ballot.

How it works in Vermont:

Vermont voters may begin to vote 30 days before the election. Requests for an early voter absentee ballot can be made at any time until 5:00 p.m. or the closing of the town clerk's office on the day before the election. The request can be made at the same time the person registers to vote, so long as the voter registration application and absentee ballot request are submitted by 5:00 p.m. on the Wednesday before election day.

Any voter or a voter's health care worker or family member may make a request for an early voter absentee ballot by telephone, in person or in writing, for the ballot to be mailed to the voter. Another person who is authorized by the voter to act on his or her behalf may also request an absentee ballot to be mailed to the voter, but this request must be made in writing, signed by the person who is making the request. A voter may make one request for a primary and general election, but will need to make a new request for each new election cycle.

A voter may pick up a ballot for him or herself from the town clerk to return by mail, or in person; or the voter may vote early at the town clerk's office by filling out an absentee ballot and leaving it at the clerk's office for counting on election day.

On election day, absentee ballots are delivered to sick or disabled voters by a bipartisan pair of justices of the peace who will wait while the voter fills out the ballot, and who will assist the voter on request, and who will then return the ballot to the polls for counting.

All absentee ballots may be returned by mail or by hand by the voter or by a person authorized by the voter. The ballots must be returned to the town clerk's office prior to election day, or to the polls on election day. All absentee ballots that are returned by the close of the polls on election day are counted, unless the outer envelope is not properly signed, or unless the ballot is otherwise spoiled.

Our municipal clerks keep a record of voters who have requested an absentee ballot. This record includes information about who made the request, the date that the absentee ballot is mailed to the voter and the date the ballot is returned. This list is a part of the public record, and is checked by the political parties on a daily basis leading up to the election. Once a ballot is received by the town it is considered voted and the voter may not take it back to vote a new ballot.

Vermont's election administrators encourage the use of early and absentee voting because it reduces lines on election day and helps ease administrative pressures by spreading the work over the 30 day early voting period. On election day the voter's name is checked off the voter registration rolls, the absentee ballots are opened by bi-partisan pairs of election workers and are commingled to preserve the privacy of the voter. Before the polls open for voters, during the slower times during the day, and after the close of polls at 7:00 p.m., the election workers place the ballot in the ballot box or feed the ballots into the optical scan machine until they are all counted. All absentee ballots returned by the close of the polls on election day are counted.

Preventing Problems

In Vermont we have procedures in place that are designed to prevent problems that could arise from the use of early and absentee voting.

- Voters who change their mind. Sometimes early voters change their mind in the waning days before an election and wish to take back their returned absentee ballot. Once a ballot is received back it is considered voted and cannot be returned to the voter or spoiled so that a voter can vote a new ballot. Any state that permits early voting must educate the voters about the voter's responsibility to be sure about their vote before returning their ballot.
- Lost ballots. Every election we have voters who have lost or misplaced an absentee ballot. Because our local election workers keep complete records of both the sending and the return of a ballot, a voter who has lost a ballot may sign a sworn affidavit to that effect, and he or she will be given a new ballot to vote. In the event that both ballots are returned, the second ballot received will be considered spoiled. States must have a clear rule about how it will handle lost ballots.
- Over-enthusiastic campaign workers. Campaign workers often encourage voters to request absentee ballots. We require that when a request is made through a third party (other than a family member or health care worker) the request must be in writing signed by the third party, and include contact information for the person who has made the request.

This ensures that we can identify and hold responsible individuals who might be abusing the absentee voting system. In the last election we were able to quickly identify campaigns that were making requests on behalf of voters without the voter's permission.

- Fraud. Public education is a critical component of fraud prevention. People must be told that voting on behalf of another person, even a family member, violates the law. In addition, to prevent fraud, states should ensure that ballots are mailed directly to the voter. Only the voter should be allowed to pick up his or her own ballot in advance of the election. When election workers deliver ballots to people who are sick or have a disability they should do so in bipartisan pairs. The record of who has requested an absentee ballot, when a ballot was mailed and when it was returned to the town for counting should be made public to encourage the identification and reporting of possible fraud. Finally, every report of possible fraud must be investigated and, if fraud is found, there must be enforcement of the applicable laws.
- Privacy. To preserve the privacy of the absentee voter the ballots are separated from the identifying envelope and commingled with other absentee ballots before they are placed into the ballot box or fed into the optical scan machines. This is done by bipartisan pairs of election workers to ensure privacy and to prevent election workers from changing or destroying ballots.
- Election worker training and public education is important! We have found that the best way to prevent problems with early and absentee voting is through voter education and election worker training.

It is important to remember that every state faces different challenges as it seeks to improve the administration of elections and meet the mandates of existing federal and state laws. That being said, I believe our experience with no excuse absentee voting could be instructive as this Congress considers whether no excuse early and absentee voting is appropriate for the rest of the country.